

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FILED

2019 JAN 17 PM 3:58

DEPUTY CLERK *W*

James Earl Clayton  
Plaintiff

**5-19CV00008-C**

v.

Civil Action No.

U.S. Department of Veterans Affairs  
Defendant

COMPLAINT

Date 01/17/2019  
Signature James E. Clayton  
Print Name James Earl Clayton  
Address 3302 East 16th St.  
City, State, Zip Lubbock Texas 79403  
Telephone 325-514-2878

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: <i>Office of Chief Council of P.O. BOX 25126 Denver Colorado 52225</i>			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. <i>James Earl Clayton 3302 East 16th St Lubbock TX. 79403</i>		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		4. DATE OF BIRTH <i>03/29/1960</i>		5. MARITAL STATUS <i>married</i>	
6. DATE AND DAY OF ACCIDENT <i>10/12/17</i>		7. TIME (A.M. OR P.M.) <i>2:25 PM</i>		8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). <i>I went to the V.A. complaining of having problem urinating, low back pain, numbness and pain of buttocks inner thighs and legs. Doctor Strang told me that I did not need to see a back specialist, he would send me to pain management for epidurals. I told him that I have had epidurals before and they did not work that I needed to see a specialist.</i>	
9. <b>PROPERTY DAMAGE</b>					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. <b>PERSONAL INJURY/WRONGFUL DEATH</b>					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. <i>Very severe back pain, with extrem burning of right thigh and numbness of both legs, and incontinence. I have trouble having bowel movements. I do not have any feeling in that area. Life time paralysis.</i>					
11. <b>WITNESSES</b>					
NAME			ADDRESS (Number, Street, City, State, and Zip Code)		
<i>Pharmacist Doctor Strang Nurse Dr. Daleys assistant</i>			<i>Lubbock VA Lubbock Spine Institute</i>		
12. (See instructions on reverse). <b>AMOUNT OF CLAIM</b> (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY <i>\$1,000,000</i>		12c. WRONGFUL DEATH	
12d. TOTAL (Failure to specify may cause forfeiture of your rights).					
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>James Earl Clayton</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM <i>325-514-2878</i>		14. DATE OF SIGNATURE <i>05/19/2018</i>
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b>			<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b>		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

I was sent to Dr. Daley for pain management at the Lubbock Spine Institute. I told Dr. Daley the something about what was going on with my lower back, but he inner and outer thighs and legs. He told me that the Cervant MRI showed I had bulging disks. That Dr. Strang had ordered for me to have epidurals. I got 1 epidural I thought everything was okay. After a week I started having a burning in my thighs and legs and lower back. I told Dr. Daley's assistant it seems to be getting worse, so she said they would give me another epidural if that one did not work. So one month after the first epidural they scheduled me for another seeing that the first one did not help I ask Doctor Strang if I could get an MRI done at another facility. I went to University Medical Center in Lubbock TX. and had one done. The MRI showed that I had a severe Cauda Equina in one disk and moderate to severe in another along with other problems in disks above. I had a copy of the MRI sent to Laback Spine Institute. Even after Dr. Strang saw MRI he did not stop the order for the second MRI. Now that I have had thousands of epidurals my back pain is worse and I have severe burning in my right thigh and extremely weak legs, Doctor Strang stated in his report that all I want was drugs meaning that I did not have a health problem. I told him that I was having bad effect from the injections. They did nothing about it. They made me go almost 2 weeks without any pain meds. The pain was so great I was going to make it, that I did not think I was going to make it.

JAMES E CLAYTON  
3302 East 16th St  
Lubbock, TX 79403

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

James Earl Clayton

(b) County of Residence of First Listed Plaintiff Lubbock County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

Department of Veterans Affairs Office of General Counsel Torts Law Group

County of Residence of First Listed Defendant McLennan County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 424 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 425 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 426 Appeal 28 USC 158	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 427 Appeal 28 USC 158	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 428 Appeal 28 USC 158	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 429 Appeal 28 USC 158	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 430 Appeal 28 USC 158	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 190 Other Contract	<input checked="" type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 431 Appeal 28 USC 158	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 432 Appeal 28 USC 158	<input type="checkbox"/> 850 Securities/Commodities/Exchange	
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 433 Appeal 28 USC 158	<input type="checkbox"/> 890 Other Statutory Actions	
				<input type="checkbox"/> 434 Appeal 28 USC 158	<input type="checkbox"/> 891 Agricultural Acts	
				<input type="checkbox"/> 435 Appeal 28 USC 158	<input type="checkbox"/> 893 Environmental Matters	
				<input type="checkbox"/> 436 Appeal 28 USC 158	<input type="checkbox"/> 895 Freedom of Information Act	
				<input type="checkbox"/> 437 Appeal 28 USC 158	<input type="checkbox"/> 896 Arbitration	
				<input type="checkbox"/> 438 Appeal 28 USC 158	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	
				<input type="checkbox"/> 439 Appeal 28 USC 158	<input type="checkbox"/> 950 Constitutionality of State Statutes	
				<input type="checkbox"/> 440 Appeal 28 USC 158		
				<input type="checkbox"/> 441 Appeal 28 USC 158		
				<input type="checkbox"/> 442 Appeal 28 USC 158		
				<input type="checkbox"/> 443 Appeal 28 USC 158		
				<input type="checkbox"/> 444 Appeal 28 USC 158		
				<input type="checkbox"/> 445 Appeal 28 USC 158		
				<input type="checkbox"/> 446 Appeal 28 USC 158		
				<input type="checkbox"/> 447 Appeal 28 USC 158		
				<input type="checkbox"/> 448 Appeal 28 USC 158		
				<input type="checkbox"/> 449 Appeal 28 USC 158		
				<input type="checkbox"/> 450 Appeal 28 USC 158		
				<input type="checkbox"/> 451 Appeal 28 USC 158		
				<input type="checkbox"/> 452 Appeal 28 USC 158		
				<input type="checkbox"/> 453 Appeal 28 USC 158		
				<input type="checkbox"/> 454 Appeal 28 USC 158		
				<input type="checkbox"/> 455 Appeal 28 USC 158		
				<input type="checkbox"/> 456 Appeal 28 USC 158		
				<input type="checkbox"/> 457 Appeal 28 USC 158		
				<input type="checkbox"/> 458 Appeal 28 USC 158		
				<input type="checkbox"/> 459 Appeal 28 USC 158		
				<input type="checkbox"/> 460 Appeal 28 USC 158		
				<input type="checkbox"/> 461 Appeal 28 USC 158		
				<input type="checkbox"/> 462 Appeal 28 USC 158		
				<input type="checkbox"/> 463 Appeal 28 USC 158		
				<input type="checkbox"/> 464 Appeal 28 USC 158		
				<input type="checkbox"/> 465 Appeal 28 USC 158		
				<input type="checkbox"/> 466 Appeal 28 USC 158		
				<input type="checkbox"/> 467 Appeal 28 USC 158		
				<input type="checkbox"/> 468 Appeal 28 USC 158		
				<input type="checkbox"/> 469 Appeal 28 USC 158		
				<input type="checkbox"/> 470 Appeal 28 USC 158		
				<input type="checkbox"/> 471 Appeal 28 USC 158		
				<input type="checkbox"/> 472 Appeal 28 USC 158		
				<input type="checkbox"/> 473 Appeal 28 USC 158		
				<input type="checkbox"/> 474 Appeal 28 USC 158		
				<input type="checkbox"/> 475 Appeal 28 USC 158		
				<input type="checkbox"/> 476 Appeal 28 USC 158		
				<input type="checkbox"/> 477 Appeal 28 USC 158		
				<input type="checkbox"/> 478 Appeal 28 USC 158		
				<input type="checkbox"/> 479 Appeal 28 USC 158		
				<input type="checkbox"/> 480 Appeal 28 USC 158		
				<input type="checkbox"/> 481 Appeal 28 USC 158		
				<input type="checkbox"/> 482 Appeal 28 USC 158		
				<input type="checkbox"/> 483 Appeal 28 USC 158		
				<input type="checkbox"/> 484 Appeal 28 USC 158		
				<input type="checkbox"/> 485 Appeal 28 USC 158		
				<input type="checkbox"/> 486 Appeal 28 USC 158		
				<input type="checkbox"/> 487 Appeal 28 USC 158		
				<input type="checkbox"/> 488 Appeal 28 USC 158		
				<input type="checkbox"/> 489 Appeal 28 USC 158		
				<input type="checkbox"/> 490 Appeal 28 USC 158		
				<input type="checkbox"/> 491 Appeal 28 USC 158		
				<input type="checkbox"/> 492 Appeal 28 USC 158		
				<input type="checkbox"/> 493 Appeal 28 USC 158		
				<input type="checkbox"/> 494 Appeal 28 USC 158		
				<input type="checkbox"/> 495 Appeal 28 USC 158		
				<input type="checkbox"/> 496 Appeal 28 USC 158		
				<input type="checkbox"/> 497 Appeal 28 USC 158		
				<input type="checkbox"/> 498 Appeal 28 USC 158		
				<input type="checkbox"/> 499 Appeal 28 USC 158		
				<input type="checkbox"/> 500 Appeal 28 USC 158		
				<input type="checkbox"/> 501 Appeal 28 USC 158		
				<input type="checkbox"/> 502 Appeal 28 USC 158		
				<input type="checkbox"/> 503 Appeal 28 USC 158		
				<input type="checkbox"/> 504 Appeal 28 USC 158		
				<input type="checkbox"/> 505 Appeal 28 USC 158		
				<input type="checkbox"/> 506 Appeal 28 USC 158		
				<input type="checkbox"/> 507 Appeal 28 USC 158		
				<input type="checkbox"/> 508 Appeal 28 USC 158		
				<input type="checkbox"/> 509 Appeal 28 USC 158		
				<input type="checkbox"/> 510 Appeal 28 USC 158		
				<input type="checkbox"/> 511 Appeal 28 USC 158		
				<input type="checkbox"/> 512 Appeal 28 USC 158		
				<input type="checkbox"/> 513 Appeal 28 USC 158		
				<input type="checkbox"/> 514 Appeal 28 USC 158		
				<input type="checkbox"/> 515 Appeal 28 USC 158		
				<input type="checkbox"/> 516 Appeal 28 USC 158		
				<input type="checkbox"/> 517 Appeal 28 USC 158		
				<input type="checkbox"/> 518 Appeal 28 USC 158		
				<input type="checkbox"/> 519 Appeal 28 USC 158		
				<input type="checkbox"/> 520 Appeal 28 USC 158		
				<input type="checkbox"/> 521 Appeal 28 USC 158		
				<input type="checkbox"/> 522 Appeal 28 USC 158		
				<input type="checkbox"/> 523 Appeal 28 USC 158		
				<input type="checkbox"/> 524 Appeal 28 USC 158		
				<input type="checkbox"/> 525 Appeal 28 USC 158		
				<input type="checkbox"/> 526 Appeal 28 USC 158		
				<input type="checkbox"/> 527 Appeal 28 USC 158		
				<input type="checkbox"/> 528 Appeal 28 USC 158		
				<input type="checkbox"/> 529 Appeal 28 USC 158		
				<input type="checkbox"/> 530 Appeal 28 USC 158		
				<input type="checkbox"/> 531 Appeal 28 USC 158		
				<input type="checkbox"/> 532 Appeal 28 USC 158		
				<input type="checkbox"/> 533 Appeal 28 USC 158		
				<input type="checkbox"/> 534 Appeal 28 USC 158		
				<input type="checkbox"/> 535 Appeal 28 USC 158		
				<input type="checkbox"/> 536 Appeal 28 USC 158		
				<input type="checkbox"/> 537 Appeal 28 USC 158		
				<input type="checkbox"/> 538 Appeal 28 USC 158		
				<input type="checkbox"/> 539 Appeal 28 USC 158		
				<input type="checkbox"/> 540 Appeal 28 USC 158		
				<input type="checkbox"/> 541 Appeal 28 USC 158		
				<input type="checkbox"/> 542 Appeal 28 USC 158		
				<input type="checkbox"/> 543 Appeal 28 USC 158		
				<input type="checkbox"/> 544 Appeal 28 USC 158		
				<input type="checkbox"/> 545 Appeal 28 USC 158		
				<input type="checkbox"/> 546 Appeal 28 USC 158		
				<input type="checkbox"/> 547 Appeal 28 USC 158		
				<input type="checkbox"/> 548 Appeal 28 USC 158		
				<input type="checkbox"/> 549 Appeal 28 USC 158		
				<input type="checkbox"/> 550 Appeal 28 USC 158		
				<input type="checkbox"/> 551 Appeal 28 USC 158		
				<input type="checkbox"/> 552 Appeal 28 USC 158		
				<input type="checkbox"/> 553 Appeal 28 USC 158		
				<input type="checkbox"/> 554 Appeal 28 USC 158		
				<input type="checkbox"/> 555 Appeal 28 USC 158		
				<input type="checkbox"/> 556 Appeal 28 USC 158		
				<input type="checkbox"/> 557 Appeal 28 USC 158		
				<input type="checkbox"/> 558 Appeal 28 USC 158		
				<input type="checkbox"/> 559 Appeal 28 USC 158		
				<input type="checkbox"/> 560 Appeal 28 USC 158		
				<input type="checkbox"/> 561 Appeal 28 USC 158		
				<input type="checkbox"/> 562 Appeal 28 USC 158		
				<input type="checkbox"/> 563 Appeal 28 USC 158		
				<input type="checkbox"/> 564 Appeal 28 USC 158		
				<input type="checkbox"/> 565 Appeal 28 USC 158		
				<input type="checkbox"/> 566 Appeal 28 USC 158		
				<input type="checkbox"/> 567 Appeal 28 USC 158		
				<input type="checkbox"/> 568 Appeal 28 USC 158		
				<input type="checkbox"/> 569 Appeal 28 USC 158		
				<input type="checkbox"/> 570 Appeal 28 USC 158		
				<input type="checkbox"/> 571 Appeal 28 USC 158		
				<input type="checkbox"/> 572 Appeal 28 USC 158		
				<input type="checkbox"/> 573 Appeal 28 USC 158		
				<input type="checkbox"/> 574 Appeal 28 USC 158		
				<input type="checkbox"/> 575 Appeal 28 USC 158		
				<input type="checkbox"/> 576 Appeal 28 USC 158		
				<input type="checkbox"/> 577 Appeal 28 USC 158		
				<input type="checkbox"/> 578 Appeal 28 USC 158		
				<input type="checkbox"/> 579 Appeal 28 USC 158		
				<input type="checkbox"/> 580 Appeal 28 USC 158		
				<input type="checkbox"/> 581 Appeal 28 USC 158		
				<input type="checkbox"/> 582 Appeal 28 USC 158		
				<input type="checkbox"/> 583 Appeal 28 USC 158		
				<input type="checkbox"/> 584 Appeal 28 USC 158		
				<input type="checkbox"/> 585 Appeal 28 USC 158		
				<input type="checkbox"/> 586 Appeal 28 USC 158		
				<input type="checkbox"/> 587 Appeal 28 USC 158		
				<input type="checkbox"/> 588 Appeal 28 USC 158		